

Message Text

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R 112220 Z MAY 73

FM SECSTATE WASHDC

TO COMUSFORAZ LAJES

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FOLL SENT ACTION LISBON FROM SECSTATE 08 MAY 73 REPEAT
ED TO YOU
QUOTE

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E. O. 11652: N/ A

TAGS: ETRN, PO

SUBJECT: CIVAIR - PAN REQUEST FOR SERVICE AT LAJES

REF: A) LISBON 1653, B) STATE 85269

1. DEPARTMENT CONCURS WITH CONCEPT OF SUGGESTED CHANGE IN
FIRST PARA OF PROPOSED NOTE (PARA 2. A REFTEL B). HOWEVER,
WE PREFER INCLUSION OF ONLY FIRST OF THE TWO PROPOSED IN-
SERTIONS, SINCE SECOND NORMALLY CONSIDERED TO REFER TO
CAPACITY OFFERED BY AIRLINES UNDER THE AGREEMENT, NOT
IMPLEMENTATION OF ROUTE RIGHTS. THUS, REVISED FIRST
SUBSTANTIVE PARA OF NOTE WOULD INCLUDE SENTENCE STARTING
" SECTION II OF THE ANNEX..." BUT NOT RPT NOT FOLLOWING
SENTENCE STARTING " IN ADDITION, THE SAME SECTION..."
(PARA 1, REFTEL A).

2. TO MAKE EVEN MORE CLEAR WHAT WE ARE PRESSING PORTUGUESE
FOR, SECOND HALF OF FIRST PARA NOTE SHOULD BE AMENDED AS
FOLLOWS: SENTENCE STARTING " THE USG FIRMLY BELIEVES"
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SHOULDCONTINUE " THAT THE INAUGURATION OF OPERATIONS VIA LAJES AIRPORT BY TAP CREATED FOR US CARRIERS THE COROLLARY RIGHT TO SERVE THE AZORES ON THE US ROUTES DESCRIBED IN SECTION I. A. OF THE ANNEX TO THE SAME AGREEMENT, UTILIZING THE LAJES AIRPORT". PARAGRAPH WOULD THEN CONTINUE " THAT IS PARTICULARLY SO..." TO THE END, AS SET FORTH AND AMENDED IN PARA 1, REFTEL A. (WHILE AMENDED WORDING PROPOSED ABOVE

IS SOMETHING OF AN EXPANSION OF LANGUAGE CONTAINED EMBASSY' S FEBRUARY 20 NOTE, IT IS NOT PROPORTED TO BE A QUOTE FROM THE NOTE AND SERVES MERELY TO CLARIFY POINT WE MADE IN NOTE.)

3. CONCERNING LAST SUBSTANTIVE PARA OF NOTE (PARA 2. C REFTEL B, AND 1. C. REFTEL A), WE ACCEPT EMBASSY ARGUMENT CONCERNING TACTICAL ADVANTAGE OF MORE GENERAL LANGUAGE IN OPERATIVE PORTION. HOWEVER, WE SUGGEST FOLLOWING LANGUAGE TO FOLLOW " IN ITS NOTE OF MARCH 19, 1971": " THE US AUTHORITIES WILL HAVE TO CONSIDER WHAT STEPS SHOULD BE UERTAKEN IN ORDER TO COMPENSATE FOR THE INABILITY OF A U. S. AIRLINE TO IMPLEMENT ONE OF ITS RIGHTS UNDER THE AGREEMENT IN ACCORD WITH THE PRINCIPLE OF FAIR AND EQUAL OPPORTUNITY TO WHICH BOTH COUNTRIES HAVE SUBSCRIBED IN THAT AGREEMENT."

4. FYI: RE EMBASSY' S QUESTIONS ON US ABILITY ACT AGAINST TAP IN EVENT WE DO NOT SUCCEED IN GETTING PAN AM INTO LAJES, THE CIVIL AERONAUTICS BOARD HAS THE AUTHORITY TO REQUIRE A FOREIGN AIRLINE TO FILE ITS SCHEDULES FOR APPROVAL AND TO DISAPPROVE ALL OR PART OF SUCH SCHEDULES IN THE EVENT THAT IT IS DETERMINED THAT ANOTHER COUNTRY HAS, " OVER THE OBJECTIONS OF THE USG, TAKEN ACTION WHICH IMPAIRS, LIMITS, TERMINATES, OR DENIES OPERATING RIGHTS PROVIDED IN (SUCH) AIR TRANSPORT AGREEMENT, OF ANY US AIR CARRIER DESIGNATED THEREUNDER..." (SEE PART 213 OF THE CAB' S ECONOMIC REGULATIONS, FOUND IN POST-1970 EDITIONS OF 14 CFR.) AS OUR NOTE EXPLAINS, WE BELIEVE THAT PAN AMERICAN IS CURRENTLY BEING DENIED RIGHTS UNDER THE AGREEMENT. WHILE OUR PRIMARY OBJECTIVE REMAINS TO OBTAIN GOP PERMISSION FOR PAN AM TO OPERATE ITS SCHEDULE VIA LAJES, ABSENT SUCH PERMISSION OR PROMPT VOLUNTARY TERMINATED OFFICIAL USE

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MINATION BY TAP OF ITS SERVICE TO THE US VIA LAJES AIRPORT, WE EXPECT TAP WILL BE REQUIRED TO FILE ITS SCHEDULES AND, MOST LIKELY, WILL HAVE ITS SCHEDULE TO BOSTON VIA LAJES DISAPPROVED. THE TIMING AND DETAILS OF NEXT STEPS CAN VARY, AND FURTHER INSTRUCTIONS TO EMBASSY WILL DEPEND ON NATURE GOP REACTION THIS NOTE. IN ANY CASE, THERE NO INTENTION PERMIT PORTUGUESE TO DRAG ISSUE OUT MUCH LONGER

AND IN EFFECT GIVE TAP ANOTHER COMPETITION- FREE SUMMER
AT LAJES. END FYI. ROGERS UNQUOTE
ROGERS

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